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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/399,873	09/20/1999	FRANK FADO	6169-95	2778

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EXAMINER	
ARMSTRONG, ANGELA A	
ART UNIT	PAPER NUMBER
2626	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/399,873	FADO ET AL.	
	Examiner	Art Unit	
	Angela A. Armstrong	2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 March 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☒ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-12 rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for recording a noise sample while operating a computer component under test, does not reasonably provide enablement for recording an isolated noise sample while operating a computer system component in isolation from other computer system components. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make or use the invention commensurate in scope with these claims. The specification does not provide a disclosure of how the components are operated in isolation from other components so that the recording can be obtained.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims recite a series of steps to be performed by a computer, but without the computer readable medium needed to realize the computer program's functionality, the computer program description is not a process, and is thus nonstatutory functional descriptive material. When a computer program is claimed in a process where the

computer is executing the computer program's instructions, the claim is treated as a process claim. When the computer program is recited in conjunction with a physical structure, such as a computer memory, the claim is treated as a product claim. See Interim Guidelines pages 50-57.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being obvious over Williams et al (US Patent No. 5,764,852), herein after referred to as Williams, in view of Kawada et al, JP41009184A, herein after referred to as Kawada.

Williams discloses methods, a system and machine-readable storage for responding to noises in a speech recognition system.

6. Regarding claims 1 and 7, Williams provides monitoring a system of a computer, a computer user and the environment, detecting background noises, environmental noises and computer noises which may occur while a person uses a voice recognition application program, identifying the noises that occur at col. 2, lines 25-41, which reads on "computer system" and "component" of the system. The system allows the voice recognition system to automatically register background noises produced by peripheral devices (col. 4, line 65 to col. 5, line 18). Williams discloses identifying and recording of non-speech sounds at col. 5, lines 53-54, which reads on "recording a silence sample" and "recording an isolated noise sample while operating a computer system component in isolation from other computer system components". Williams

also discloses determining when a randomly occurring noise selected from a group of noises has been received at col. 5, line 60 to col. 6, line 25 and col. 6, line 26 to col. 7, line 60, which reads on "attributing said isolated noise sample to said isolated computer component".

Williams does not specifically teach comparing the sounds to a preset threshold in determining which randomly occurring noise has been received. In a similar field of endeavor, Kawada teaches comparing the power level of an input signal to a threshold value and determining if the signal is sound or silence if the power level exceeds or falls below a set threshold (section entitled Solution), which reads on "comparing signal characteristics of a silence sample with signal characteristics of said isolated noise sample" and "said signal characteristics of said silence sample differ by a preset threshold from said signal characteristics of said isolated sample". Kawada teach that such a system is advantageous in preventing a sound detector from misjudging increased and sustained noise levels as desired sound signals (section entitled Problem to be Solved).

Therefore, it would have been obvious to one of ordinary skill at the time of the invention to modify the noise recognizer in the speech recognition system of Williams to provide for distinguishing between sounds and silence using a comparison based on a threshold criteria, as taught by Kawada, for the purpose of preventing the speech recognition system from misjudging increased and sustained noise levels as desired sound signals, as suggested by Kawada.

Regarding claims 2 and 8, Williams teaches everything as claimed in claim 1. Additionally, Williams teaches identifying and recording of randomly occurring noises at col. 5, line 60 continuing to col. 7, line 60, which reads on "logging said signal characteristics of said silence sample and said isolated noise sample". Williams also discloses determining when a

randomly occurring noise selected from a group of noises has been received at col. 7, lines 58-60, which reads on "reporting excess noise identified in said identifying step". Williams further discloses determining whether the user desires notification during the detection of the noise and provides said notification via various output devices at col. 6, lines 6-19; and also allows for the issuance of the SAVE command if noise is detected at col. 8, lines 44-49, which reads on "suggesting a remedy for said identified excess noise".

Regarding claims 3-6 and 9-12, Williams teaches everything as claimed in claim 1. Additionally, Williams teaches that the noises to be detected are based on automatically registered background noises produced by peripheral devices at col. 4, lines 65-67, which reads on "creating a list of computer system components to be tested for excess noise".

Williams teaches identifying and recording of a group of randomly occurring noises at col. 5, line 60 continuing to col. 7, line 60, which reads on "recording an isolated noise sample while operating a computer system component in said created list according said corresponding method".

Williams does not specifically teach a particular method for testing for excess noise. In a similar field of endeavor, Kawada teaches comparing the power level of an input signal to a threshold value and determining if the signal is sound or silence if the power level exceeds or falls below a set threshold (section entitled Solution), which reads on "comparing signal characteristics of a silence sample with signal characteristics of said isolated noise sample" and "said signal characteristics of said silence sample differ by a preset threshold from said signal characteristics of said isolated sample". Kawada teach that such a system is advantageous in

preventing a sound detector from misjudging increased and sustained noise levels as desired sound signals (section entitled Problem to be Solved).

Therefore, it would have been obvious to one of ordinary skill at the time of the invention to modify the noise recognizer in the speech recognition system of Williams to provide for a method for testing a component for excess noise, as taught by Kawada, for the purpose of preventing the speech recognition system from misjudging increased and sustained noise levels as desired sound signals, as suggested by Kawada.

Additionally, Williams further discloses determining whether the user desires notification during the detection of the noise and provides said notification via various output devices at col. 6, lines 6-19; and also allows for the issuance of the SAVE command if noise is detected at col. 8, lines 44-49, which reads on "suggesting said corresponding remedy for said identified excess noise in each said computer system component in said created list".

Response to Arguments

7. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela A. Armstrong whose telephone number is 571-272-7598. The examiner can normally be reached on Monday-Thursday 11:30-8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached on 571-272-7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Angela A Armstrong
Primary Examiner
Art Unit 2626

AAA
February 18, 2007